IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 16431 of 2006

DATE OF DECISION: 16.10.2006

Mohan Singh and others ..Petitioners

Versus

The State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. R.K.Arora, Advocate
for the petitioners.

J.S. Khehar, J. (oral)

The petitioners claim re-fixation of their pay with effect from 1.1.1986. In the first instance, we were not agreeable with the learned counsel for the petitioners, as we felt that the instant writ petition could not be entertained after a delay of more than 20 years. However, learned counsel for the petitioners placed reliance on a Full Bench judgment of this Court in Saroj Kumari and others v. State of Punjab and others, 1998(3) Recent Services Judgments 350, wherein it has inter alia, been held as under:-

> "13. For the foregoing reasons we are of the view that in cases where only fixation of pay according to the relevant rules/instructions or a judgment is prayed for, the writ petition cannot be dismissed at the threshold on the ground of delay and laches but the payment of arrears can be restricted to a

> reasonable period. Three years and two months would be considered a reasonable period as that is the period for which a person can ask for the payment of arrears before a Civil Court."

In view of the aforestated determination at the hands of the Full Bench, namely, that a plea for re-fixation of pay cannot be rejected on grounds of delay and laches, we have no other alternative but to entertain the instant writ petition.

Having entertained the writ petition, learned counsel for the petitioners invited our attention to the fact that on the issue in hand the petitioners had submitted a legal notice dated 29.6.2006, requiring the respondents to adjudicate their claim, in the same manner, in which, on an earlier occasion, this Court, while entertaining CWP No.4769 of 2005, had required respondent No.2 i.e. the Director, Health and Family Welfare, Punjab, to take a final decision on the legal notice dated 29.6.2006 (Annexure P15).

Notice of motion.

On our asking, Mr. Ashok Aggarwal, Additional Advocate General, Punjab, accepts notice on behalf of respondents No.1 to 4. Learned counsel for the respondents states that he has no objection to the disposal of the instant writ petition in terms of the prayer made by the learned counsel for the petitioners.

In view of the above, without going into the merits of the claim raised by the petitioner, we consider it just and appropriate to dispose of the instant writ petition by directing respondent No.2 i.e. the Director, Health and Family Welfare, Punjab, to take a final decision on the legal notice

dated 29.6.2006 (Annexure P15), by passing a well reasoned speaking order within three months from the date of receipt of a certified copy of this order. In case the petitioners are found entitled to any monetary benefits, the same shall be calculated and released to them within a further period of one month. It is, however, clarified that the petitioners shall be entitled to arrears limited to a period of three years and two months from the date of filing of the instant writ petition (which was filed on 13.10.2006).

Disposed of accordingly.

Order dasti, on payment of usual charges.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

October 16, 2006.
vig